



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 23, 1997

Mr. Ryan Tredway  
Staff Attorney  
Legal and Compliance Division, MC110-1A  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

OR97-2369

Dear Mr. Tredway:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 110433.

The Texas Department of Insurance (the "department") received a request for information relating to Progressive County Mutual Insurance Company ("Progressive"). You assert that the requested information is excepted from disclosure under sections 552.101, 552.111, and 552.112 of the Government Code. You cite to provisions of the Insurance Code, and you also claim that Progressive may have a proprietary interest in some of the information at issue.

Pursuant to section 552.305 of the Government Code, this office informed Progressive of the request. Progressive responded to our notice, asserting sections 552.101 and 552.110. The department has submitted to this office for review representative samples of the requested documents.<sup>1</sup>

The department has marked some of the documents for which the department asserts article 1.15, section 9 of the Insurance Code, in conjunction with section 552.101 of the Government Code. Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, including statutory law. Article 1.15,

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

section 9, of the Insurance Code makes confidential the examination reports and related work papers obtained during the course of an examination of a carrier. Ins. Code art. 1.15, § 9, Open Records Decision No. 640 (1996). You have marked the documents that you contend are made confidential under this provision. We agree that the department must withhold from disclosure the documents that the department asserts fall within section 9 of article 1.15.

You also assert that section article 21.49-1, § 10 of the Insurance Code is applicable to some of the information you have marked as protected under section 552.101 of the Government Code. Article 21.49-1, § 10 provides in pertinent part:

[all] information, documents, and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to Section 9 and all information reported pursuant to Section 3, shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the commissioner or any other person . . . without the prior written consent of the insurer to which it pertains.

We agree that the department may withhold from disclosure the registration statement submitted for our review based on section 552.101 of the Government Code in conjunction with article 21.49-1, § 10 of the Insurance Code.

You also claim that section 552.112 excepts from required public disclosure a memorandum and a document denoted as a "Financial Review." Section 552.112 excepts from public disclosure

information contained in or relating to examination, operating, or condition reports prepared by or for an agency responsible for the regulation or supervision of financial institutions or securities, or both.

Insurance companies are included within the term "financial institutions" for purposes of section 552.112(a). Open Records Decision Nos. 392 (1983) at 3, 158 (1977) at 5-6. You indicate in your request for a ruling that these documents are related to an examination report. We find, therefore, that the information at issue in these documents is information relating to an examination report prepared by or for the department, and may be withheld from required public disclosure under section 552.112 of the Government Code.<sup>2</sup>

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<sup>2</sup>Because we are able to make a determination under sections 552.101 and 552.112, we do not address the department's claim under section 552.111 or Progressive's claim based on section 552.110.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch  
Assistant Attorney General  
Open Records Division

VDP/rho

Ref.: ID# 110433

Enclosures: Submitted documents

cc: Mr. Albert O. Morris  
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(w/o enclosures)